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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

IN THE MATTER OF THE
APPLICATION OF THE UNITED
STATES FOR THE SEARCH OF:

3780 SOUTH OGDEN AVENUE,
SOUTH OGDEN, UTAH 84403.

Case No. 2:23mj96 CMR

Filed Under Seal

Magistrate Judge Cecilia M. Romero

AFFIDAVIT IN SUPPORT OF AN APPLICATION FOR SEARCH WARRANTS

I, Special Agent Christopher A. Isek, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND OFFICER BACKGROUND

1. I make this affidavit in support on an application under Rule 41 of the Federal Rules of Criminal Procedure for a warrant to search 3780 SOUTH OGDEN AVENUE, SOUTH OGDEN, UTAH 84403 (more particularly described in Attachment A).

2. I am presently employed as a Special Agent (SA) with the United States Department of Homeland Security (DHS), Federal Protective Service (FPS). I have been

employed as an SA since October 2022 and am assigned, in part, to investigate offenses involving federal employees. As an SA, I have received approximately 400 hours of instruction at the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia.

3. Prior to my tenure as an SA, I worked as a Federal Air Marshal for 2 years with over 350,000 miles and hundreds of flights flown. I also served in the United States Army as an infantryman, beginning as a rifleman and working up to positions of leadership as an acting platoon sergeant. I served over 12 years of active duty with 4 combat deployments to Iraq and Afghanistan. I completed my bachelor's degree in Criminal Justice, summa cum laude, from Colorado Technical University.

4. The statements in this affidavit do not contain all known information but rather only those facts believed necessary to establish probable cause for the requested search warrant. I am familiar with the facts and circumstances set forth herein as a result of a review of official reports and records, conversations with other law enforcement officers, and my own training, experience, and investigative efforts, as more fully described below.

BACKGROUND INFORMATION

5. When an individual purchases a firearm from a federally licensed firearm dealer (FFL), the individual is required to execute an ATF Form 4473. The form is the official record that documents the transfer of the purchased firearm from the FFL to the

individual. When a purchaser fills out the form, the purchaser must provide personal information and answer a series of question that are designed to determine (1) the identity of the purchaser, (2) whether the purchaser is buying the firearm for himself/herself, and (3) whether the purchaser is prohibited from obtaining and/or possessing the firearm. If an individual indicates their history includes a disqualifying event (i.e. a felony conviction, dishonorable discharge, etc.), the FFL is directed to not process the transaction. Individuals executing ATF 4473 Forms certify their statements are true and correct.

6. In Utah, once an individual executes an ATF Form 4473, the information is submitted for verification to the Utah Bureau of Criminal Identification. If this entity confirms that the individual is not restricted from obtaining and/or possessing the firearm, the FFL is authorized to finalize the transfer. However, FFLs have discretion to not finalize a transfer if they suspect an illegal transaction is about to occur.

PROBABLE CAUSE

7. On January 18, 2023, MARC WADE BRYNER attempted to purchase a 2nd Amendment 2a-15 5.56 rifle from an FFL in Ogden, Utah. BRYNER executed an ATF 4473 Form. Question 21e. asks “are you an unlawful user of, or addicted to, marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance?”

Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational

purposes in the state where you reside.” BRYNER marked “no” in response to this question. He also certified his answers were true and correct and provided his Utah driver’s license as proof of identification.

8. On January 19, 2023, BRYNER returned to the same FFL in Ogden, Utah and attempted to purchase a Franklin BFSIII M4 5.56 rifle. BRYNER executed another ATF 4473 Form, answering “no” in response to Question 21e. BRYNER again certified his answers were true and correct, providing his Utah driver’s license as proof of identification. During both attempted purchases, FFL employees noted that BRYNER was behaving erratically and appeared to be under the influence. Because of this, neither transfer was finalized.

9. Later on January 19, 2023, BRYNER went to the IRS Service Center in Ogden, Utah. BRYNER is employed as a tax examiner at that location. A security guard reported that BRYNER approached the guard window and brandished a toy gun. Special Agents with the Treasury Inspector General for Tax Administration (TIGTA) met with BRYNER and noted he was behaving erratically, including laughing at inappropriate moments. BRYNER confirmed he tried to purchase the two rifles but was denied by the FFL. BRYNER stated he wanted an AR-15 because the rounds could go “through a vest.”

10. During a prior incident on December 23, 2022, BRYNER told TIGTA Special Agents he had firearms at his home. BRYNER also indicated he had a medical

marijuana card and confirmed he utilizes marijuana, though not at the workplace. A records check revealed that BRYNER obtained a Utah medical marijuana card, effective September 1, 2022. Family members have also confirmed that BRYNER utilizes marijuana.

11. Based on the information above, Magistrate Judge Jared C. Bennett authorized a felony complaint, charging two (2) violations of 18 U.S.C. § 922(a)(6), False Statement During the Attempted Acquisition of a Firearm, and an arrest warrant on January 31, 2023 (Case No. 2:23-MJ-00086-JCB). On February 1, 2023, BRYNER was arrested on that warrant. BRYNER was booked into the Weber County Jail and is scheduled for an initial appearance on February 3, 2023.

12. At the time of his arrest, BRYNER requested that his vehicle be released to a family member.¹ BRYNER also asked the family member to care for two dogs at his residence, located at 3780 SOUTH OGDEN AVENUE, SOUTH OGDEN, UTAH 84403. Agents told the family member that BRYNER was being arrested for the false statements in connection with the attempted acquisition of firearms and that the family member could contact agents if they possessed any information relevant to the investigation.

13. Upon entry at BRYNER's residence, the family member observed marijuana and drug paraphernalia, including bongs and lighters, in plain view.² The

¹ This family member is one of the individuals who confirmed that BRYNER utilizes marijuana. This family member disclosed to agents that they observed drug paraphernalia at BRYNER's residence as recently as December 24, 2022. The family member also reported they had observed BRYNER smoking marijuana in late November 2022.

² While BRYNER possesses a valid Utah medical marijuana card, pursuant to Utah Code Ann. § 58-37-

family member took a photo of these items and forwarded it to agents (see below). After caring for the dogs, the family member secured the residence. The family member did not observe any firearms while in the residence; however, the family member did not conduct a thorough search.



3.9(2)(b), the provisions do “not authorize a medical cannabis cardholder to smoke or combust cannabis or to use a device to facilitate the smoking or combustion of cannabis.”

14. Based on my training, experience, and the aforementioned facts which are true and correct to the best of my knowledge, I hereby submit that probable cause exists that MARC WADE BRYNER has engaged in violations of 18 U.S.C. § 922(a)(6), False Statements During the Attempted Acquisition of Firearms, and that there is probable cause to believe that the premises located at 3780 SOUTH OGDEN AVENUE, SOUTH OGDEN, UTAH 84403, will contain evidence, contraband, and/or instrumentalities of these crimes, which are more particularly described in Attachment B. Specifically, I submit that the premises contains evidence of BRYNER's use of marijuana, which is relevant to whether BRYNER knowingly submitted a false and misleading statement when he executed the ATF 4473 Forms. I therefore formally request the issuance of the requested search warrant.

DATED this 2nd day of February, 2023.

CHRISTOPHER A
ISEK

Digitally signed by
CHRISTOPHER A ISEK
Date: 2023.02.02 11:14:48 -07'00'

SA CHRISTOPHER A. ISEK, Affiant
DHS, FPS

SUBSCRIBED and SWORN before me this 2nd day of February, 2023.



CECILIA M. ROMERO
Magistrate Judge, District of Utah

Attachment A
(Property to be Searched)

The property to be searched is described as follows: 3780 SOUTH OGDEN AVENUE, SOUTH OGDEN, UTAH 84403, including the main structure, garages, storage structures, outbuildings, and any container or compartment, whether locked or unlocked, where the items described in Attachment B (Items to be Seized) may be located. Based upon physical observations and information from the Weber County Assessor's Office, the property is further described as follows:

- Parcel #: 051300032; listed owner MARC BRYNER
- Single-family, two-story residence (including basement) with a detached garage/storage structure
- Brick exterior (red/brown in color)
- Front door faces West
- Chain link fence
- Corner of Ogden Avenue and 38th Street



View from Ogden Avenue



View from 38th Street

ATTACHMENT B

(Items to be Seized)

All items relevant to violations of 18 U.S.C. § 922(a)(6), False Statements During Attempted Acquisition of Firearms by MARC WADE BRYNER, including:

1. Any and all marijuana and marijuana products;
2. Any and all paraphernalia including pipes, bongs, lighters, etc.;
3. Any and all records of use of marijuana by MARC WADE BRYNER, including documents, photos, and/or receipts.